

### **REMARKS**

In the Office Action, the Examiner rejected claims 1-91. By the present Response, Applicants amend claims 1, 11, 12, 26, 41, and 48 to further clarify the claimed subject matter, cancel claims 10, 31, and 47, and add new claims 92-94. Upon entry of the amendments, claims 1-9, 11-30, 32-46, and 48-94 will remain pending in the present patent application. Applicants respectfully request reconsideration of the above-referenced application in view of the foregoing amendments and the following remarks.

#### **Rejections Under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected claims 1-6, 9-12, 16-27, 30, 31, 34-43, 47-54, 56-63, 65-70, 73-77, 79, 80, 82-85, and 87-91 under 35 U.S.C. § 103(a) as unpatentable over Carrott et al. (U.S. Patent No. 6,909,792) in view of Guetz et al. (U.S. Patent No. 6,091,777). The Examiner also rejected claims 7, 8, 28, 29, 44, 45, 71, and 72 as unpatentable over Carrott et al. in view of Guetz et al. and Fredlund et al. (U.S. Patent No. 6,353,487). Additionally, the Examiner rejected claims 13-15, 32, 33, 46, 55, 64, 78, 81, and 86 as being unpatentable over Carrott et al. in view of Guetz et al. and Rothschild et al. (U.S. Patent Publication No. 20020019751). Applicants respectfully traverse these rejections.

#### ***Legal Precedent***

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex*

*parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

***Omitted Features of Independent Claim 1***

Applicants respectfully note that the Carrott et al. and Guetz et al. references, either alone or in hypothetical combination, fail to disclose each element of independent claim 1. For instance, independent claim 1 recites “transmitting the plurality of temporally distinct medical images to a remote processing system via a network, wherein transmitting the plurality of medical images comprises *communicating with the remote processing system via a uniform interface for the remote processing system*” (emphasis added). Applicants respectfully assert that the cited references fail to disclose this element. Indeed, the Examiner has not indicated a single passage of either reference that discloses such an element. Consequently, Applicants respectfully submit that a *prima facie* case of obviousness with respect to independent claim 1 has not been established.

***Various Omitted Features of Claims Depending from Independent Claim 1***

Further, subject matter recited in various claims depending from independent claim 1 is also absent from both the Carrott et al. and Guetz et al. references. For instance, dependent claim 5 recites “performing dynamic range reduction on the at least one image.” Although there is a general allegation in the Office Action that the Guetz reference discloses dynamic range reduction, Applicants respectfully assert that the reference cannot possibly be logically considered to disclose reduction of a dynamic range of an image, because the cited reference fails to contain the word “range,” let alone contain any discussion whatsoever of “dynamic range.” See Office Action mailed July 26, 2005, page 3. Additionally, similar to the discussion below with respect to

independent claims 26, 41, 59, and 79, the Office Action fails to provide even *a scintilla* of support for the rejection of dependent claims 9-12 and 16-25. Applicants respectfully assert that these claims recite subject matter absent from the cited references and request that the Examiner either indicate these claims as allowable or provide a rational basis for refusing to make such an indication.

***Failure of Office Action to Adequately Address, and Omitted Features of, Independent Claims 26, 41, 59, and 79***

First, Applicants respectfully assert that the Examiner has not established a *prima facie* case of obviousness with respect to independent claims 26, 41, 59, and 79, because the Examiner has not provided either an explanation or a citation to a reference regarding the features recited in these claims. On the contrary, the Examiner seems to believe that an explanation of the Section 103 rejection in regard to the features of claim 1 is sufficient to cover the features of claims 26, 41, 59, and 79. Applicants respectfully point out that independent claims 1, 26, 41, 59, and 79 contain different limitations and have differing scopes. Applicants respectfully remind the Examiner that:

When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

37 C.F.R. § 1.104(c)2; see also M.P.E.P. § 707.07. As such, Applicants respectfully assert that the Examiner's rejection lacks the required specificity and that the Examiner has not met his burden to show that each and every element of claims 26, 41, 59, and 79 is found in the cited references. Applicants respectfully remind the Examiner of the Examiner's duties and obligations under 37 C.F.R. §1.104 and M.P.E.P. §707.07 and request that the Examiner clarify the rejection and specifically cite the presently rejected

features in a future non-final office action to allow Applicants a fair and reasonable opportunity to respond.

Second, Applicants respectfully assert that the proposed combination of the Carrott et al. and Guetz et al. references cannot render independent claims 26, 41, 59, and 79 obvious under Section 103, because these cited references fail to either teach or suggest all of the elements recited in these claims. For example, independent claim 26 recites, among other things, “electronically transmitting the plurality of temporally distinct medical diagnostic images to a remote processing system, wherein electronically transmitting the plurality of temporally distinct medical diagnostic images comprises *communicating with the remote processing system via a uniform interface for the remote processing system*” (emphasis added). Further, independent claim 41 recites “gathering medical diagnostic images at a remote processing system via a network, wherein gathering the medical diagnostic images comprises *interacting with a remote image storage system via a uniform interface configured for interacting with the remote processing system*” (emphasis added). Still further, independent claim 59 recites “a remote processing system and “a uniform interface for interacting with the remote processing system via a network.” Additionally, independent claim 79 recites “an applications server *configured to execute temporal image analysis requests from remote platform independent interfaces*” (emphasis added). The cited references fail to disclose such elements. Indeed, the Examiner has not even pointed to any portion of either of the cited references that he believes supports the present rejections. Consequently, the Carrott et al. and Guetz et al. references, taken alone or in hypothetical combination, cannot support a *prima facie* case of obviousness with respect to independent claims 26, 41, 59, and 79. Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of independent claims 26, 41, 59, 79, and the claims depending therefrom.

***Dependent Claims***

Applicants note that each of claims 7, 8, 13-15, 28, 29, 32, 33, 44-46, 55, 64, 71, 72, 78, 81, and 86 depend from one of independent claims 1, 26, 41, 59, and 79. As discussed above, the Carrott et al. and Guetz et al. references, taken alone or in hypothetical combination, fail to disclose each element of independent claims 1, 26, 41, 59, and 79. Further, the Fredlund et al. and Rothschild et al. references do nothing to obviate the deficiencies of the Carrott et al. and Guetz et al. references. As a result, dependent claims 7, 8, 13-15, 28, 29, 32, 33, 44-46, 55, 64, 71, 72, 78, 81, and 86 are allowable on the basis of their dependency from a respective allowable independent claim, as well as for the subject matter separately recited in these dependent claims. Accordingly, Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 7, 8, 13-15, 28, 29, 32, 33, 44-46, 55, 64, 71, 72, 78, 81, and 86.

For at least the reasons above, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103 and allowance of claims 1-9, 11-30, 32-46, and 48-91.

**New Claims**

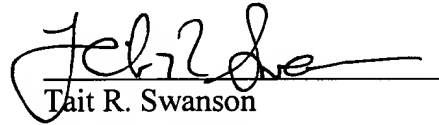
New claims 92-94 have been added by this Response. These new claims add no new matter and are fully supported throughout the specification. Furthermore, in view of the earlier cancellation of claims 10, 31, and 47, no fees are believed due for the addition of claims 92-94 in this Response. These new claims are believed allowable for their dependency from an allowable independent claim, as well as by virtue of the subject matter separately recited by these dependent claims. Accordingly, Applicants respectfully request allowance of dependent claims 92-94.

**Conclusion**

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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